



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director

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TO: SENATOR JON B. ERPENBACH

FROM: Dan Schmidt, Principal Analyst

RE: Disclosure of Certain Personal Information by the Department of Natural Resources, the Department of Transportation, and the Department of Safety and Professional Services

DATE: May 7, 2018

This memorandum describes the statutes that govern the release of certain personal information by the Department of Natural Resources (DNR), the Department of Transportation (DOT), and the Department of Safety and Professional Services (DSPS). Specifically, you asked about the provisions which permit an individual to “opt-out” of requests for lists which contain the personal information of 10 or more individuals. These provisions are contained in ss. 23.45 (DNR), 85.103 (DOT), and 440.14 (DSPS), Stats., respectively. These provisions generally allow individuals to remove their personal information from compiled lists that the agencies may sell or release for various purposes. The individual provisions are described below.

DNR – s. 23.45, Stats.

The DNR is prohibited from disclosing the personal identifier¹ of any individual who has made a declaration of nondisclosure in accordance with s. 23.45, Stats. The declaration applies to a computer generated list compiled or maintained by the department from information provided to the department by individuals who have applied for an approval² or for

¹ A “personal identifier” is defined in s. 23.45, Stats., as a name, Social Security number, telephone number, street address, post office box number, nine-digit extended zip code, or electronic mail address.

² For the purposes of s. 23.45, Stats., “approval” means any approval issued by the department or its agents through an automated system established by the department for the issuance of approvals under s. 29.024, Stats. [hunting, trapping, and fishing], or the issuance of vehicle admission receipts under s. 27.01 (7m) (d), Stats. [state parks and trails].

registration³ and that contains the personal identifiers of 10 or more of those individuals. The declaration may occur under any of the following circumstances:

1. If a form that the DNR or its agents require an individual to complete in order to obtain an approval or a registration requires the individual to provide any of the individual's personal identifiers, the form shall include a place for the individual to declare that the individual's personal identifiers obtained by the department or its agents from the information on the form may not be disclosed on a list that the department furnishes to another person.

2. If the DNR or its agents require an individual to provide, by telephone or other electronic means, any of the individual's personal identifiers in order to obtain an approval or a registration from the department, the department or its agents shall ask the individual at the time that the individual provides the information if the individual wants to declare that the individual's personal identifiers obtained by telephone or other electronic means may not be disclosed on a list that the department furnishes to another person.

3. The DNR shall provide to an individual upon request a form that includes a place for the individual to declare that the individual's personal identifiers obtained by the department or its agents may not be disclosed on a list that the department furnishes to another person. [See s. 23.45 (2), (3), and (4), Stats.]

A declaration made on one of these forms does not apply to a list that the DNR furnishes to another state agency, a law enforcement agency, or a federal government agency. A state agency that receives a list from the DNR that contains a personal identifier of an individual who has made a declaration under this section may not disclose the personal identifier to any person other than another state agency, a law enforcement agency, or a federal government agency.

DOT – s. 85.103, Stats.

In providing a person with any information that is collected or prepared by the department and that consists in whole or in part of the personal identifiers⁴ of 10 or more persons, the DOT is generally prohibited from disclosing the personal identifier of any person who has made a designation under either of the following provisions:

1. The DOT shall include on any form for application for original registration under s. 341.08, for application for renewal of registration under s. 341.08, for application for a certificate of title under s. 342.06, for application for a license or identification card or renewal of a license or identification card under s. 343.14, and for application for a special identification card under

³ For the purposes of s. 23.45, Stats., “registration” means any registration document, as defined in s. 23.33 (1) (jn), Stats. [all-terrain vehicle registration], s. 23.335 (1) (zg), Stats. [off-highway motorcycle registration], or s. 350.01 (10t), Stats. [snowmobile registration], or certification or registration document, as defined in s. 30.50 (3b), Stats. [other general certification or registration documentation], that is issued by the department or its agents.

⁴ A “personal identifier” is defined in s. 85.103, Stats., as “a name, social security number, telephone number, street address, post-office box number or 9-digit extended zip code.” Unlike s. 23.45, Stats., it does not specifically include an electronic mail address.

s. 343.51, a place for the individual to designate that the individual's personal identifiers may not be disclosed in information compiled or maintained by the department that contains the personal identifiers of 10 or more individuals, a statement indicating the effect of making such a designation, and a place for an applicant or registrant who has made such a designation to reverse that designation.

2. The DOT shall provide to an individual upon request a form that includes a place for the individual to designate that the individual's personal identifiers may not be disclosed in information compiled or maintained by the department that contains the personal identifiers of 10 or more individuals, a statement indicating the effect of making such a designation, and a place for an applicant or registrant who has made such a designation to reverse that designation. [See s. 85.103 (2) and (3), Stats.]

DOT may, however, disclose a personal identifier of a person who has made a nondisclosure designation if the disclosure is made by the DOT for certain specified insurance, tax, debt collection or selective service, law enforcement, or employer notification program purposes. [See s. 85.103 (6), Stats.]

DSPS – s. 440.14, Stats.

Like the DNR and DOT, the DSPS and its credentialing boards are also prohibited from disclosing a personal identifier⁵ of any person who has made a declaration of nondisclosure. The declaration applies to any information compiled or maintained by the department or a credentialing board that contains the personal identifiers of 10 or more individuals. The declaration may occur under any of the following circumstances:

1. If a form that the DSPS or a credentialing board requires an individual to complete in order to apply for a credential or credential renewal or to obtain a product or service from the department or the credentialing board requires the individual to provide any of the individual's personal identifiers, the form shall include a place for the individual to declare that the individual's personal identifiers obtained by the department or the credentialing board from the information on the form may not be disclosed on any list that the department or the credentialing board furnishes to another person.

2. If the DSPS or a credentialing board requires an individual to provide, by telephone or other electronic means, any of the individual's personal identifiers in order to apply for a credential or credential renewal or to obtain a product or service from the department or a credentialing board, the department or the credentialing board shall ask the individual at the time that the individual provides the information if the individual wants to declare that the individual's personal identifiers obtained by telephone or other electronic means may not be disclosed on any list that the department or the credentialing board furnishes to another person.

⁵ A "personal identifier" is defined in s. 440.14, Stats., as "a social security number, telephone number, street name and number, electronic mail address, or post-office box number." Unlike ss. 23.45 and 85.103, Stats., it does not specifically include a name.

3. The DSPS or a credentialing board shall provide to an individual upon request a form that includes a place for the individual to declare that the individual's personal identifiers obtained by the department or credentialing board may not be disclosed on any list that the department or credentialing board furnishes to another person. [See s. 440.14 (2), (3), and (4), Stats.]

A declaration made on one of these forms does not apply to a list that the DSPS furnishes to another state agency, a law enforcement agency, or a federal government agency. In addition, the declaration does not apply to a list that the department or the Board of Nursing furnishes to the coordinated licensure information system under s. 441.51 (6), Stats. A state agency that receives a list from the DSPS that contains a personal identifier of an individual who has made a declaration under this section may not disclose the personal identifier to any person other than another state agency, a law enforcement agency, or a federal government agency.

Exception for Lists of Less Than 10 People

Please note that while each of the sections described above permits an individual to request nondisclosure of personal information in lists of 10 or more individuals, none of these sections regulates the disclosure of personal identifiers of requests for information regarding **fewer than** 10 individuals. Such requests may be presumed to be controlled by s. 19.35, Stats., commonly referred to as the "Open Records Law."

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

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